



Australian Government
Attorney-General's Department

February 2022

Joint Committee of Public Accounts and Audit Report 486

**Regulatory Activities – Inquiry into Auditor-General's
Reports 33, 47, 48 (2019-20) and 5 and 8 (2020-21)**

Attorney-General's Department

Overview

As required by the Parliamentary Joint Committee of Public Accounts and Audit *Report 486: Regulatory Activities - Inquiry into Auditor-General's Reports 33, 47, 48 (2019-20) and 5 and 8 (2020-21)* (the JCPAA Report), this submission provides an update on the implementation of recommendations of the following Australian National Audit Office (ANAO) reports on the management of the Australian Government *Lobbying Code of Conduct* (the Code) and the Australian Government Register of Lobbyists (the Register):

- Auditor-General Report No. 27 of 2017-18, *Management of the Australian Government's Register of Lobbyists* (the 2018 ANAO report), and
- Auditor-General Report No. 48 of 2019-20, *Management of the Australian Government's Lobbying Code of Conduct – Follow-up Audit* (the 2020 ANAO report).

Recommendation 3 of the JCPAA Report provides that the department is to provide a written update on the implementation of the recommendations of the 2018 and 2020 ANAO reports within 6 months, including details on:

- post-transfer IT system issues
- the Code's communications and stakeholder engagement strategy
- the risk management strategy for the Code, and
- the department's progress in developing an evaluation framework for assessing the Code's success in meeting its objectives.

The 2018 and 2020 ANAO reports made a number of recommendations regarding the management and administration of the Code and the Register that it underpins (outlined below). The department accepted and has finalised implementation of the recommendations of both ANAO reports. The department's independent Audit and Risk Management Committee oversaw the implementation of the ANAO recommendations and agreed in August 2021 that the recommendations had been addressed and completed.

2018 ANAO Report

The 2018 ANAO report made a single recommendation. This recommendation was accepted by the Department of the Prime Minister and Cabinet, as the agency responsible for administering the Code at that time.

Recommendation 1

The Department of the Prime Minister and Cabinet review the appropriateness of the current arrangements and Code requirements in supporting the achievement of the objectives established for the Code. To better support the ongoing regulation of lobbyists, PM&C should:

- a) implement a strategy to raise lobbyists' and Government representatives' awareness of the Code and their responsibilities;
- b) assess risks to compliance with the Code and provide advice on the ongoing sufficiency of the current compliance management framework; and

- c) develop a set of performance measures and establish an evaluation framework to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved.

Implementation Status

Complete (through completion of 2020 ANAO report Recommendation 1)

2020 ANAO Report

The 2020 ANAO report was a follow-up audit to the 2018 ANAO report and made two recommendations. The department accepted both recommendations.

Recommendation 1

The Attorney-General's Department establish effective governance processes for the implementation of the recommendation made in Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists*. This includes ensuring appropriate senior management engagement; that responsible officers understand the recommendation's intent; and that an implementation plan with achievable activities and milestones is in place.

Implementation Status

Complete

Recommendation 2

The Attorney-General's Department evaluate the sufficiency of the current regulatory regime for lobbying, and provide advice to Government about whether the regime is able to achieve the regulatory objective of promoting public trust in the integrity of government processes through ensuring that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

Implementation Status

Complete

Implementation of recommendations

Implementation of 2018 ANAO Report recommendation 1 and 2020 ANAO Report recommendation 1

Establishment of governance processes and an implementation plan

The department established an implementation plan and engaged a broad range of senior managers, as well as the department's Audit and Risk Management Committee (ARMC), throughout the implementation process.

The implementation plan set out the governance framework that oversees the implementation of the ANAO recommendations, which included developing and executing a communications strategy and evaluation framework, and providing advice to Government on the sufficiency of the Code.

The ARMC noted the implementation plan in March 2021. The ARMC provided independent oversight of the implementation of the ANAO recommendations consistent with the implementation plan. The ARMC agreed to close Recommendations 1 and 2 of the 2020 ANAO report in June and August 2021 respectively, on the basis that the recommendations had been addressed and completed. Responsible officers were engaged throughout the implementation process, and continue to be engaged through ongoing work associated with administering the Code and Register.

Completion of upgrades to the Register IT system and resolution of post-transfer IT issues

The department has finalised upgrades to the Register IT system to include features directly relating to the ANAO's recommendations on improved compliance and increased public awareness of the Code, and to resolve post-transfer IT issues.

A number of technical issues with the IT system became apparent when the system was transferred to the department from PM&C in May 2019. The most significant of these issues were errors in the automated workflows resulting in inaccurate information being published on the Register or, in some cases, information being inadvertently removed. Work to redesign and develop the Register, user portal and an internal administrative database to resolve these issues and give effect to the ANAO recommendations commenced in December 2019.

On 27 May 2020, the department successfully deployed the first phase of updates to the Register's IT system, which resolved the initial IT issues and included a newly designed user portal, a better functioning public facing Register and improvements to the department's internal administrative database. In February, March and August 2021 the department further upgraded the Register to include a dedicated function for reporting breaches of the Code, to provide historical information about registered lobbyists and to introduce performance tracking features for use by the department under its newly developed evaluation framework. The department completed final upgrades in December 2021, which improved the usability of the Register for lobbyists and the public.

Consistent with the ANAO's recommendations, the IT system upgrades have significantly improved the department's ability to monitor compliance with the Code (and consequently ensure appropriate risk management), made it easier for the public to report breaches of the Code, introduced performance measures for the department in administering the Register and improved the department's reporting and risk management capabilities.

Implementation of communications and stakeholder engagement strategy

The department has implemented a communications strategy to raise awareness of the Code, improve lobbyists' and Government representatives' understanding of their obligations and reduce the risk of non-compliance due to persons subject to the Code not being aware of their obligations. Under this strategy, the department:

- published new guidance material on its website in September 2021, which was developed in consultation with the lobbying peak body, the Australian Professional Government Relations Association

- supported correspondence to each portfolio at Ministerial and Secretary level raising awareness of the Code – the Attorney-General wrote to other Ministers in August 2021 and the Secretary wrote to other Secretaries in September 2021
- continues to engage with agencies and other stakeholders as required to provide support for their internal governance processes and understanding of the Code
- continues to work closely with APGRA to identify opportunities to provide guidance and advice to the lobbying sector.

The department will undertake outreach activities on an ongoing basis to ensure continued awareness of the Code, particularly to ensure that lobbyists and Government representatives understand their obligations under the updated Code, which commences on 28 February 2022.

Finalisation of an evaluation framework

The department has finalised and implemented an evaluation framework that establishes a number of performance measures for the department's administration of the Code. Following IT upgrades, the department's performance against several of these measures can be assessed using data collected through the IT system. The evaluation framework also provides a number of metrics in relation to promoting awareness of the Code, efficient and effective decision-making and compliance activities.

Data required under the evaluation framework has been collected since 1 July 2021 and will continue to be collected and utilised to assess the Code's success in meeting its objectives.

The department has recently assessed its performance against key performance indicators for efficient and effective decision-making, set out in the evaluation framework – namely that more than 85% of new registrations are published within 3 weeks, and more than 85% of updates are published within 5 working days. During the 2020-21 financial year, the department published 100% of new registrations within 3 weeks, and 99% of updates to the Register within 5 working days, in satisfaction of these KPIs.

Implementation of 2020 ANAO Report Recommendation 2

Advice on sufficiency of the Code and release of updates to the Code

The department provided initial advice about the sufficiency of the Code to the then Attorney-General, the Hon Christian Porter MP, in January 2021, and subsequent advice to the Attorney-General, Senator the Hon Michaelia Cash, in July 2021 on options to improve the operation and administration of the Code.

The department considered that the Code broadly achieved its purpose of promoting the transparency of third-party lobbying activities. The department's advice also noted that there were opportunities for enhancements to the administration and operation of the Code, including to reduce risks of non-compliance.

On 15 July 2021, the Attorney-General approved the department developing updates to the Code to improve its practical operation and enhance its transparency objective. The updated Code was

subsequently released on 20 December 2021 and will take effect from 28 February 2022. In summary, the updates to the Code:

- allow the Secretary of the Attorney-General's Department to decide not to register or re-register a lobbyist who has committed a serious breach of the Code, for a period of up to three months
- strengthen disclosure requirements for former Government representatives who undertake lobbying activities by requiring them to provide information about their former role when making contact with Government representatives, and publishing additional information on the Register
- require lobbyists to declare they have not breached key parts of the Code in their annual statutory declaration, and introduce a continuous disclosure requirement if matters they have declared materially change
- restructure and simplify the presentation of the Code, including adding explanatory notes.

The department has provided advice on the updates to the Code to all registered lobbyists and responsible officers for lobbying organisations. A copy of the updated Code and an associated explanatory document is at **Attachment A**.